

1 **STATE OF TENNESSEE**
2 **RULEMAKING HEARING**
3 **DEPARTMENT OF COMMERCE AND INSURANCE**
4 **BOARD OF LICENSING CONTRACTORS**

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8 **TRANSCRIPT OF THE PROCEEDINGS**
9 taken May 26, 2008
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12 The aforementioned cause came on to be heard, on
13 May 26, 2008, before the Board Members and
14 staff and the following is a transcript of the proceedings
15 that were had on May 26, 2008, to wit:
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22 Cannon & Associates
23 Court Reporters
24 P.O. Box 150
25 Portland, Tennessee 37148
 (615) 323-0249

Reported by Beverly Cannon

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APPEARANCES:

Members of the Board: Chairman Larry Parks
Member Marvin Sandrell
Member Frank Neal
Member Reese Smith, III
Member Cliff Hunt

Ms. Beth Oschack Tarter
Staff Attorney
500 James Robertson Parkway
Davy Crockett Tower, 12th Floor
Nashville, Tennessee 37243

Ms. Telise Roberts
Assisitant Executive Director
500 James Robertson Parkway
Davy Crockett Tower, Suite 110
Nashville, Tennessee 37243

1 CHAIR PARKS: Let's call the meeting
2 of the Board of Licensing Contractors to order. We'll
3 begin with the roll call from my left, please.

4 MEMBER SMITH: Reese Smith. Franklin.

5 MEMBER HUNT: Cliff Hunt. Memphis.

6 CHAIR PARKS: Larry Parks. Chattanooga.

7 MEMBER NEAL: Frank Neal. Nashville.

8 MEMBER SANDRELL: Marvin Sandrell. Columbia.

9 CHAIR PARKS: Thank you. Our first order of
10 business is that of the rulemaking hearing.

11 MS. TARTER: Yes.

12 CHAIR PARKS: Beth, I will turn it over to
13 you.

14 MS. TARTER: Thank you, Mr. Chairman. My
15 name is Beth Tarter. I serve as Staff Attorney in the
16 Department, Division of Regulatory Boards. I am the
17 attorney for the Board of Licensing Contractors. Would the
18 agency representatives who are present introduce themselves
19 for the record? I believe you guys have already done that.

20 Telise Roberts who is momentarily detained is
21 the Assistant Executive Director for the Board.

22 It is Wednesday March 26th, 2008. This
23 rulemaking hearing is taking place pursuant to Tennessee
24 Code Annotated Section 4-5-204, in Room 160 of the Davy
25 Crockett Tower, 500 James Robertson Parkway, Nashville,

1 Tennessee.

2 The purpose of the rulemaking hearing is to
3 solicit comments on proposed rules. The Department of
4 Commerce and Insurance, Board of the Licensing Contractors
5 has made a public order to providing these rules. There's
6 two main rules that we're going to be going over today.
7 Both of them are based off of actions by the general
8 assembly.

9 One general assembly amended Tennessee Code
10 Annotated 62-6-111 A(1) and 62-37-108 B(5) last year to
11 require general contractors and home improvement contractor
12 applicants and licensees to submit an affidavit affirming
13 they maintain general liability insurance and the amount of
14 such insurance in order to obtain a new license or renewal
15 license. I'll express the rules that were previously
16 adopted by this Board to implement the amendments to those
17 statutes. And this rulemaking hearing is being scheduled
18 in an effort to make those permanent.

19 In addition, Tennessee Code Annotated 62-616
20 C, was also amended to change monetary limitations
21 requiring a review or a financial statement from one
22 million to one million five hundred thousand dollars.
23 Based on the Board's general rulemaking authority pursuant
24 to Tennessee Code Annotated 62-6-108 A, the Board proposed
25 amendments to the rules to ensure that these new monetary

1 limits are reflected in the relevant rules of the Board
2 pertain to renewal applications and request for changes in
3 monetary limitations.

4 A rule is defined as an agency statement of
5 general applicability that implements or prescribes law or
6 policy or describes the procedures or practice requirements
7 of the agency. Proposed rules are filed with the office of
8 Secretary of State, notice is given to the public for
9 comment, and a rulemaking hearing is held.

10 Upon conclusion of the hearing and adoption
11 of the proposed rules, the rules are forwarded to the
12 Attorney General's Office for review of legality. If
13 approved, they are filed with the Secretary of State, which
14 is responsible for publication, and the government
15 operations committee of the General Assembly. The rules
16 must stay in the Secretary of State's office for 75 days,
17 the end of which time will be effective.

18 Those members of the public wishing to speak
19 should sign up at the table at the front of the room. Only
20 those who have signed will be permitted to speak. The
21 notice of rulemaking hearing included the entire text of
22 these proposed rules are published in the February 2008
23 edition of the Tennessee Administrative Register.

24 Ms. Telise Roberts, she is the Assistant
25 Executive Director for the Board of Licensing Contractors,

1 and can provide additional notice for the effected
2 individuals or groups pursuant to posting them on the
3 Board's web site as well as applicable post offices and to
4 all associations to where the notice was sent.

5 As the agency hears public comment on the
6 proposed rules, I as moderator reserve the right to limit
7 such comments if they become repetitive. Please limit your
8 comments accordingly. I will read the substance of the
9 proposed rules for the record. I think all the members
10 also have copies of these rules.

11 As stated earlier, they're basically two main
12 sections of the rules. The first section is sect. on
13 0680-1-.10 regarding renewal of licenses. Any person,
14 firm, or corporation desiring to renew a license shall make
15 application to the Board on the prescribed forms. A
16 renewal application for monetary limitation greater than
17 one million five hundred thousand dollars must be
18 accompanied by a reviewed or audited by an financial
19 statement prepared by a licensed accountant. If a renewal
20 applicant requests a monetary limitation of one million
21 five hundred thousand dollars or less, he or she may submit
22 a notarized statement that the information contained in his
23 or her financial statement is true and correct.

24 The authority for this rule is T.C.A.
25 62-6-108, 62-6-111, 62-6-116.

1 In addition 0680-1-.14 regarding a request
2 for change of classification or limitation. So part two:
3 A request for a change of monetary limitation to be less
4 than one million five hundred thousand dollars shall be
5 reviewed or audited by a licensed accountant or certified
6 public accountant. A request for a change in monetary
7 limitation to more than one million five hundred thousand
8 dollars shall be audited and attested to a licensed public
9 accountant or certified public accountant. The authorities
10 for that is T.C.A. 62-6-108, 62-6-611.

11 In addition, the general assembly recently
12 made amendment that required us to have a new chapter to
13 our rules. It's chapter 0680-6 entitled General Liability
14 Insurance new rules and table of contents.

15 The first section is 0680-6-.01 regarding
16 definitions. So part one in "Applicant" means an
17 individual or an entity who/that is applying for a home
18 improvement contractor license or a general contractor
19 license with the Board.

20 So part two "Board" means the Board for
21 licensing contractors created by T.C.A. 62-6-104.

22 So part three, "General Liability Insurance"
23 means an insurance policy providing insurance coverage for
24 negligent acts or other acts of the principal insured or
25 the principal insured's agents or employees, operating in

1 the course or scope of the agency or employment.

2 So part four is "Licensee" as an individual
3 or entity who/that is licensed with the Board as a home
4 improvement contractor or a general contractor. The
5 authority for this rule is T.C.A. 62-6-108, 62-6-111(a) (1)
6 and 62-6-506(b) (5) .

7 The second part of this regarding the amount
8 of insurance, 0680-6-20-02 amount of insurance. So part
9 one, board licensees and applicants shall maintain general
10 liability insurance as follows: So part A, home
11 improvement contractor applicants or licensees, or if a
12 general contractor applicant's or licensee's monetary limit
13 is between the amount is between the amounts of \$0 and
14 \$500,000, then the applicant or licensee shall obtain a
15 general liability insurance policy in the amount not less
16 than \$100,000.

17 So part B is an applicant's or licensee's
18 monetary limit is between the amounts of \$500,001 and one
19 million five hundred thousand dollars, then the applicant
20 or licensee shall obtain a general liability insurance
21 policy in an amount of not less than \$500,000.

22 So part B is an applicant's or licensee's
23 monetary limit is one million five hundred thousand one
24 dollar or more, then the applicant or licensee shall obtain
25 liability insurance policy in the amount of not less than

1 one million dollars. The authority for this rule is T.C.A.
2 62-6-108, 62-6-111(a)(1) and 62-6506(b)(5).

3 The final portion 0680-6-0.03 entitled "proof
4 of insurance." So part one, applicants shall provide the
5 Board with a copy of the certificate of insurance upon
6 applying for the licensure with the Board of proof of
7 having obtained a general liability insurance policy.

8 So part two, licensees shall provide the
9 Board with a copy of a certificate of insurance upon
10 renewing his/her/its license as proof of having maintained
11 a general liability insurance policy.

12 So part three, applicants and licensees shall
13 name the Board as the certificate holder on the general
14 liability insurance policy. The authority for this is
15 T.C.A. 62-6-108 and 62-6-111(a)(1), 62-6-506(b)(5).

16 Are there any comments? Okay. Ms. Roberts,
17 does the Board know if there were there any written
18 comments that were submitted to the Board? I don't see any
19 comments from the public -- I don't have any public
20 comments. So therefore if you'll just take a roll call
21 vote approving these rules as submitted, then we can get
22 done.

23 MR. PARKS: Do we need a motion?

24 MS. TARTER: Yes.

25 MEMBER HUNT: So moved.

1 MEMBER NEAL: Second.
2 CHAIR PARKS: Motion to approve and a second
3 to accept and approve the rules. Let's have a roll call
4 vote beginning to my left. Reese Smith.
5 MEMBER SMITH: Reese Smith. Franklin. Yes.
6 CHAIR PARKS: Cliff Hunt.
7 MEMBER HUNT: Yes.
8 MEMBER NEAL: Frank Neal of Nashville. Yes.
9 MEMBER SANDREll: Marvin Sandrell of
10 Columbia. Yes.
11 CHAIR PARKS: And the Chair votes yes
12 MS. TARTER: That concludes the rulemaking
13 hearing for today.
14 (END OF REQUESTED TRANSCRIPT.)
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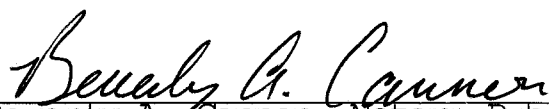
REPORTER'S CERTIFICATE

STATE OF TENNESSEE)
COUNTY OF SUMNER)

I, Beverly A. Cannon, court reporter and
notary public for the State of Tennessee at Large, hereby
certify that I reported the Rulemaking Hearing by machine
shorthand, to the best of my skills and abilities, and
thereafter the same was reduced to typewritten form by me,
consisting of 11 pages, inclusive.

I further certify that I am not related to
any of the parties named herein, nor their counsel, and
have no interest, financial or otherwise, in the outcome of
these proceedings.

WITNESS MY HAND and SEAL this the 16th day of
May, 2008.


Beverly A. Cannon, Notary Public
State of Tennessee at Large

My Commission Expires: August 2, 2010.

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1 CHAIR PARKS: Let's go back on the record.
2 MS. TARTER: First, let's go over whatever
3 questions you have. I want to start with yours and Marvin.
4 Do you know what questions had and we'll pull the file and
5 I'll get them all out at once.
6 CHAIR PARKS: Are you ready?
7 MEMBER SANDRELL: I'm ready. I guess number
8 55 through 72. I'll agree with the -- like over on number
9 62. You know, I think we -- this is just my opinion --
10 we're just slapping hands on a lot of these people and not
11 getting their attention when they are not playing by the
12 rules.
13 CHAIR PARKS: You're talking about on the
14 fines?
15 MEMBER SANDRELL: Yes, on the fines. 500
16 bucks, you know.
17 MS. TARTER: I'm sorry. You're talking about
18 the one from --
19 MEMBER SANDRELL: I started at 55 and I went
20 through 72. But the particular one I just glanced at is
21 number 62.
22 MS. TARTER: Okay.
23 CHAIR PARKS: I know the comment on that one
24 would be they're obviously disputing over the monies, which
25 we can't control. And that's probably only one side of the

1 story. And the consent order because he's contracting and
2 may hold the license versus him being apparently directly
3 related to allegations in the complaint. Right, Beth?

4 MS. TARTER: That's correct. But if you want
5 -- I mean, I've also seen in here that we noted that
6 there's a history of complaints against -- I mean, there's
7 several other files.

8 MEMBER SANDRELL: Right.

9 MS. TARTER: So if you want to -- you know,
10 if you feel like the civil penalty should be increased --
11 and I know that we've taken that into consideration the
12 history of complaints --

13 MEMBER SANDRELL: I do. I think it needs to
14 be added.

15 CHAIR PARKS: You said there was a history.

16 MS. TARTER: There is a history. But I guess
17 -- I know this company. I think we have had them -- I
18 think they managed to somehow do things within the
19 guidelines. But they have a lot of civil litigation issues
20 against them. There is one open that I know for sure.

21 CHAIR PARKS: Okay.

22 MEMBER SANDRELL: \$2,000.

23 MS. TARTER: You want \$2000?

24 MEMBER NEAL: Second.

25 CHAIR PARKS: I think we need to vote on all

1 of them at the end. Anymore, Marvin?

2 MEMBER SANDRELL: And everything else.

3 CHAIR PARKS: I begin at 73. I just wrote
4 down some numbers I wanted to make a comment on or ask a
5 question. On 75 failure to obtain a permit. You earlier
6 say the county has no codes. But do they have a permitting
7 process?

8 MS. TARTER: I'm not sure. Let me find out
9 on that one.

10 CHAIR PARKS: You know, before you slap their
11 hands for something they can't do, be careful. When you
12 say monitor for removal -- like on 78, you know -- it won't
13 happen without the Board knowledge, right?

14 MS. TARTER: Correct.

15 CHAIR PARKS: Okay.

16 MS. TARTER: And that's what we're going to
17 start doing with a lot of these older cases that I've been
18 reviewing to try and do formal hearings, after reviewing
19 with my chief counsel, if they're licenses lapsed or
20 something like that, he wants to start monitoring for
21 renewals and try to go after delinquent ones if they skip
22 out.

23 THE COURT: Number 81, I'd like to know a
24 little bit more about that one. The respondent, the
25 contractor, was accused of allowing someone to use his

1 license. He said the other contractors versus to sell the
2 lots and then contracted with him to build them. There's
3 something not -- I didn't know they could buy and sell the
4 lots and then turn around and contract back to the original
5 seller and build something on them.

6 MS. TARTER: That probably shouldn't have
7 been -- that contractor should have been termed as a yield
8 -- what it was the people in -- there were three entities
9 that were all investigated. From all the investigations, I
10 gathered, they were disciplined accordingly. But
11 basically, two partners would buy the property. And then
12 they had -- they proved to us they had a contract with this
13 licensed contractor that builds all the homes.

14 One of them signed on a contract by the name
15 contractor. And they were disciplined or -- they're
16 actually in a legal court to be disciplined for doing that.
17 Basically they're acting as developers, they owned the
18 land, from what I gathered from the investigations.

19 CHAIR PARKS: Okay. 85 appeared to be
20 commercial. You may just want to note that since I am
21 qualified for commercial. That's just for Reese. 92. Is
22 there more -- you know, if -- supposedly if somebody had a
23 bid of 400,000 -- the contractor is an unlicensed name.
24 That was within the the price of two-sixty-three-six-fifty.
25 That's just a little confusing. And a little -- we need to

1 know -- filed criminal charges. Paid over
2 fourteen-thousand in restitution. I don't know whether we
3 -- this suggests there may be more than we can read. And
4 if there's something criminal or almost criminal, we may
5 definitely want a formal hearing and not just authorization
6 form, depending on the facts.

7 MS. TARTER: Right. And I think this was
8 somebody that -- I didn't -- from what I gathered -- let me
9 pull the file on that.

10 CHAIR PARKS: And that's the end of what I
11 had to review. You'll have to pull a few files. Do you
12 want a motion?

13 MS. TARTER: Was there is anybody else who
14 had --

15 CHAIR PARKS: We've all reported.

16 MS. TARTER: Okay. Did you guys, the home
17 improvement committee, did you already --

18 THE COURT: We discussed that. We think we
19 approved them.

20 MS. TARTER: Okay.

21 MEMBER NEAL: You said that they had been
22 reviewed by two home improvement people. That's what we
23 did yesterday.

24 MS. TARTER: Okay.

25 CHAIR PARKS: Frank has been reviewing an

1 application for a -- submitted by an online testing
2 schools. He'd like to address that.

3 MEMBER NEAL: This is CBT Development
4 Corporation out of Wesley Chapel, Florida. Briefly
5 summarizing, the Board received a complaint about these
6 people. They do online testing.

7 CHAIR PARKS: Online schooling.

8 MEMBER NEAL: Online schooling. Excuse me.
9 And they didn't think they had to be approved by a board.
10 So they were issued a citation for \$250. And their
11 application is in and otherwise in order. They have not
12 paid the citation.

13 And the last request was that by virtue the
14 fact that they didn't have an office here, and they didn't
15 do anything other than online, they wanted to waive the
16 \$50,000 surety bond.

17 It would be my recommendation that we not
18 waive the bond. And also that they certainly not be
19 granted approval for their application until they pay their
20 \$250.

21 MEMBER SANDRELL: I'll second that.

22 MEMBER NEAL: I just don't think we ought to
23 waive the bond. I mean, they charge up to \$595 for some of
24 their materials.

25 MEMBER SMITH: I'm for the motion. Can we

1 site for perspective companies?

2 MEMBER NEAL: They list Tennessee on their
3 advertising even though they're licensed in lot of other
4 states.

5 CHAIR PARKS: Well, they admit they didn't
6 know the law. But ignorance in law is no excuse as we all
7 know. Do we have a motion to second?

8 MEMBER SANDRELL: Second.

9 CHAIR PARKS: Any other discussion? All in
10 favor say aye.

11 THE BOARD: Aye.

12 CHAIR PARKS: Opposed. Thank you. Telise,
13 will you collect the money and tell them that they have to
14 have a bond?

15 MS. ROBERTS: I will.

16 CHAIR PARKS: Telise, I've got an increase --
17 not an increase, but a change in mode given to me about
18 this one open complaint. I want to know what jest of that
19 complaint is. If you can maybe look while Beth is
20 looking. It may not be an issue related to that change in
21 mode.

22 MS. TARTER: I pulled all the files. I was
23 just going to start with the ones you had questions on. I
24 think Larry's question. The first one that was brought up
25 was number two. And I just had a note on here that you

1 were wondering the price on the contract.

2 This was one where the respondent is claiming
3 that he works on behalf of this pool installation company.
4 And the contract was for thirty-six-six-hundred. He offers
5 an affidavit stating that his portion of the pay was
6 nineteen-seven-fifty.

7 And the contract does have both names on
8 it. So it's one of those situations, he hadn't had any
9 prior complaints. You know, but I think he was testing --
10 coming very close to that issue with possibly being over
11 25. So that was why I suggested the letter of warning.

12 MEMBER HUNT: I think we need to issue a \$250
13 citation for unlicensed activity. Because he's acting as
14 construction manager over twenty-five-thousand. It's not
15 what he got paid. It's the total contract.

16 MEMBER SANDRELL: I'll second that.

17 CHAIR PARKS: Were there others you had to
18 get files on?

19 MS. TARTER: Yes. Number eight. This was
20 one I think I got the impression you thought relinquishes
21 the licenses was a little severe. This was one that had
22 been investigated. And they stated to the investigator
23 that they were so traumatized by the experience they wanted
24 to surrender their license and asked how to do it. But the
25 investigator told them to send a letter to the contractor's

1 board and they hadn't as of yet.

2 That's why I figured -- and there was a lot
3 of evidence in the file that they had -- they did a lot of
4 poor workmanship. However, the people had been foreclosed
5 on. They moved out. Nobody could inspect the property. A
6 bank owned it by that point. So you couldn't get any facts
7 to actual back up the poor workmanship. So they'd like to
8 surrender their license voluntary.

9 MEMBER HUNT: That answered my question.

10 MS. TARTER: Okay. Number 10, I think I have
11 a note that you wanted to do something -- you thought that
12 it warranted a more severe penalty. I think the concern I
13 had was that they stated that they had already obtained --
14 and I told them this -- but they claim to have spoken with
15 board staff and said that because the project was a
16 multiple building then -- and I can get actually a
17 statement submitted saying that they didn't intend to
18 deceive anyone.

19 The contacted the State of Tennessee and they
20 said that it would permit them to take on the project. The
21 buildings were separate. Each building was not over their
22 limit. They could proceed. And that they netted 10 to
23 fifteen thousand.

24 I don't know who they spoke with, but -- I
25 mean, that was basically my concern was punishing them if

1 they had said they had contacted somebody at the board that
2 allowed them to do that. I heard that kind of language --
3 I know we've never really formally defined project, but --

4 CHAIR PARKS: This just reenforces the need
5 for more rules. And, you know, it probably gets into -- I
6 don't know what it says -- you know, we've always had that
7 issue with apartments and condos; and two or more -- four
8 or more dwelling units and now the state building codes.

9 You know, it says over two building units --
10 two dwelling units or commercial. I think we do need to
11 try to clean that up somehow.

12 MS. TARTER: And I'd like to add -- and I
13 think there were a couple of others in the legal report
14 that people are calling the board for legal -- or for
15 opinions on things. And I was going to add in the letter
16 of warning that they need to quit relying on that.

17 I would completely quit talking to people
18 because it does get to be in a sticky position where
19 they're going to say something that we've said or possibly
20 someone got confuses; they didn't understand the
21 circumstance. So that's what I was going to add in the
22 warning. And I think there are a couple of others that
23 cited that they had got information from the staff.

24 CHAIR PARKS: Telise, is there a link on the
25 web site for asking a licensing question?

1 MS. ROBERTS: E-mail.

2 CHAIR PARKS: There's an e-mail address that
3 tells them how they -- you ought to encourage them if you
4 have a question about an application it must be in writing.
5 The staff needs to know that. If it's a small contractor
6 who doesn't have a net link, fax it to them. They need to
7 do something to document what they're being told and what
8 they want to know.

9 MS. ROBERTS: We'll start doing that.

10 MS. TARTER: That was my issue, too. I can
11 just see a formal hearing and they're going to come back
12 and say well, that's what the staff -- it occurred a couple
13 of years ago.

14 CHAIR PARKS: Any others?

15 MS. TARTER: The next one I think was number
16 14. I didn't really have any notes on this. It's just --
17 I wasn't sure what -- I think maybe you just wanted to get
18 some more information about it. And it says on here that
19 it looks like they offered to make repairs. That he wasn't
20 aware of the issues. I have a note that the contract was
21 only for eighteen thousand.

22 MEMBER HUNT: And I think one of the issues
23 was also issuing the letter of warning while litigation was
24 pending.

25 MS. TARTER: Okay.

1 MEMBER HUNT: That that could be used for or
2 against someone in the litigation.

3 MS. TARTER: Well, something that actually we
4 spoken -- my chief counsel brought up that I didn't realize
5 we could be doing is letters stating that we want to
6 monitor litigation. Where you don't necessarily -- well,
7 we realize that litigation could go on for several years
8 and that's part of the problem.

9 But at the same time, the issues that we have
10 there, both parties usually request us to just hold our
11 case, but we want them to let us know how litigation is
12 going. So instead I can issue that kind of a letter and
13 make sure they make it clear to both attorneys, issue it to
14 both sides, and say, look, we're aware of this. We're
15 looking at the same kind of issues. We expect to be
16 updated. And just kind of put it that way. And that way
17 it doesn't -- like you said, it can't be used against
18 anyone.

19 MEMBER NEAL: If we're going monitor those
20 things, then it seems to me like we ought to rely exercise
21 the judge's ability when he finds the contractor guilty, of
22 taking his licenses away from him, including a formal
23 hearing necessary by us if he does that.

24 MS. TARTER: And I've actually spoken with a
25 lot of attorneys that they didn't know that that statute

1 was actually there. So I can make sure to cite that
2 statute in there. That might get everybody's attention.
3 MEMBER NEAL: Good.
4 MEMBER SMITH: I wouldn't jump all over that.
5 I mean, --
6 CHAIR PARKS: Wouldn't jump over what?
7 MEMBER SMITH: By the way you can get the to
8 both parties. By the way you can get the contractor's
9 license on this, too.
10 MEMBER NEAL: I was talking about if we can
11 get it from the judge.
12 CHAIR PARKS: In most cases I guess the
13 plaintiff's attorney make that a part of his request, the
14 judge or the jury.
15 MS. TARTER: I was thinking I could say
16 something like we kind of monitor the same thing that would
17 be able to get in court. And just find out more generally
18 without stipulating permission about --
19 CHAIR PARKS: I'd be careful the way you do
20 it.
21 MS. TARTER: I could make a general comment
22 about monitoring litigation.
23 MEMBER HUNT: Well, in cases like this are we
24 going to leave the complaint open, then, while we monitor?
25 Or do we close it and then say we're going to monitor?

1 MS. TARTER: All I know is that we would keep
2 the files up in legal. I'm not sure how we would treat it
3 as far as our internal RBS system. But we were going to
4 keep them open in legal and keep a check on them.

5 MEMBER HUNT: That would be a change to your
6 recommendation that you had close --

7 MS. TARTER: No.

8 MEMBER HUNT: -- with a letter of warning.
9 We're going to keep it open.

10 MS. TARTER: Right.

11 MEMBER HUNT: With a letter to both parties
12 that we're monitoring litigation.

13 MS. TARTER: Because the problem is that
14 litigation could go on for years. And then I think the
15 last one I had was one of Chairman Parks.

16 CHAIR PARKS: I didn't know I had one.

17 MS. TARTER: I thought I had one you told me
18 you wanted me to pull the file. I think it was number 92,
19 the criminal --

20 CHAIR PARKS: Yeah, I did say it -- you know,
21 the way it's worded it mentioned criminal charges. And we
22 may want to not just authorize a formal hearing -- not just
23 give you the authorization to get a formal hearing if they
24 didn't get a consent order, but to do a formal hearing if
25 there's something criminal going on.

1 MS. TARTER: This was an affidavit that was
2 submitted by his attorney that they received a bill for
3 over 400,000. That it was 60 percent complete. They
4 realized that he couldn't do it for the 263 that he said
5 that he was going to try and do it for.

6 And that he's already paid his restitution.
7 I guess, they're trying to arguing that they're really
8 really sorry that they made the plaintiff's hole. And that
9 they didn't know what they were doing. So it's kind of
10 like a mercy on the Board, I guess.

11 But again, it's whatever -- criminal cases
12 sometimes there's usually -- also refer them out to local
13 district attorney and things like that. This guy looks
14 like he's already been through the criminal court.

15 CHAIR PARKS: Okay. Stick with what you're
16 doing there.

17 MS. TARTER: And you actually had a question
18 on 75 regarding doing a letter of warning for them failing
19 to obtain a permit.

20 MR. PARKS: Oh, yeah.

21 MS. TARTER: The investigation report says
22 that the building permits aren't enforced in that county.

23 CHAIR PARKS: What does that mean? We still
24 don't know what that means. My only caution thee was don't
25 slap their hands for something they can't do. That was my

1 real comment. I'm sure that somebody issues a permit. The
2 way that investigator wrote that it doesn't say there was
3 nothing they could do. Unless he means they pulled one and
4 never inspect after that.

5 MS. TARTER: That's what I got from that.
6 You want me to pull the investigation report.

7 CHAIR PARKS: Okay. What do you think?

8 MS. TARTER: I'm really not sure. It
9 basically says the building permit had not been pulled.
10 They spoke with the director of planning and they said they
11 don't enforce building permits.

12 CHAIR PARKS: Well, that still doesn't -- you
13 know, what I'm saying?

14 MS. TARTER: Right. And the letter of
15 warning is isn't -- they're not formal discipline. But it
16 is going to be something -- and I can kind of -- it looks
17 like the county inspecting it anyway.

18 CHAIR PARKS: Then given that, may I have a
19 motion to accept the legal report out of 1 through 93, I
20 believe it is -- 1 through 93, subject to the various
21 comments that have been made yesterday and today?

22 MEMBER SMITH: So moved.

23 MEMBER HUNT: Second.

24 THE COURT: Any other discussion or
25 questions. All in favor say aye.

1 THE BOARD: Aye.
2 CHAIR PARKS: Any other business to come
3 before the board?
4 MEMBER SANDRELL: Where is our next meeting?
5 CHAIR PARKS: Memphis in May is all I can
6 tell you. We stand adjourned.
7 (END OF REQUESTED TRANSCRIPT.)
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REPORTER'S CERTIFICATE

STATE OF TENNESSEE)
COUNTY OF SUMNER)

I, Beverly A. Cannon, court reporter and
notary public for the State of Tennessee at Large, hereby
certify that I reported the Board of Licensing Contractor's
by machine shorthand, to the best of my skills and
abilities, and thereafter the same was reduced to
typewritten form by me, consisting of 18 pages, inclusive.

I further certify that I am not related to
any of the parties named herein, nor their counsel, and
have no interest, financial or otherwise, in the outcome of
these proceedings.

WITNESS MY HAND and SEAL this the 16th day of
May, 2008.


Beverly A. Cannon, Notary Public
State of Tennessee at Large

My Commission Expires: August 2, 2010.